

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RICKY TEJADA,

Plaintiff,

v.

SUPERINTENDENT DELBASO, et al.,

Defendants.

:
: CIVIL ACTION NO. 3:18-CV-1096
: (JUDGE MARIANI)
: (Magistrate Judge Saporito)
:
:
:
:
:
:

ORDER

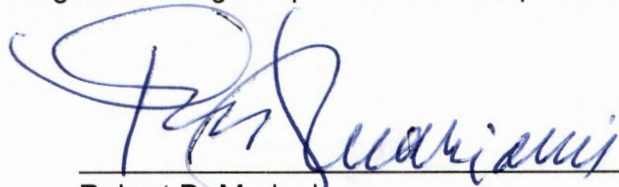
AND NOW, THIS 28th DAY OF APRIL 2022, upon consideration of Magistrate

Judge Joseph F. Saporito's Report and Recommendation ("R&R") (Doc. 217) and all relevant documents, **IT IS HEREBY ORDERED THAT:**

1. The R&R (Doc. 217) is **ADOPTED IN PART** and **NOT ADOPTED IN PART**.
2. The R&R (Doc. 217) is **NOT ADOPTED** in that the Court has made the following determinations:
 - a. Plaintiff's Eighth Amendment excessive force claim related to the July 26, 2018, van incident and the First Amendment retaliation claims based on the confiscation of property on May 31, 2016, and the events of July 26, 2018, including related supervisory and conspiracy claims as well as related John Doe Defendants go forward; and
 - b. State-law tort claims for assault and battery go forward.

3. The R&R is **ADOPTED** in all other respects for the reasons set forth therein as supplemented by the accompanying Memorandum Opinion.
4. Plaintiff's Fourth Amendment and Fourteenth Amendment excessive force claims are **DISMISSED without leave to amend**.
5. Plaintiff's Eighth Amendment claims for deliberate indifference to a serious medical need are **DIMISSED** without leave to amend.
6. Defendants "John/Jane Doe medical department staff," Department of Corrections, and SCI-Mahanoy are **DISMISSED** from this action.
7. The Motion for Summary Judgment of Department of Corrections Defendants (Doc. 152) is **GRANTED IN PART** and **DENIED IN PART WITHOUT PREJUDICE**.
 - a. The Motion is **DENIED WITHOUT PREJUDICE** as to the Eighth Amendment excessive force claim related to the July 26, 2018, van incident and the First Amendment retaliation claims based on the confiscation of property on May 31, 2016, and the events of July 26, 2018, as well as related supervisory and conspiracy claims.
 - b. The motion is **GRANTED** in all other respects.
8. The Clerk of Court is **DIRECTED TO ENTER JUDGMENT** in Defendants' favor on all claims but those identified in ¶ 2 above.

9. With this determination, only the following claims go forward:
- a. Eighth Amendment excessive force claims related to the July 26, 2018, van incident and related supervisory and conspiracy claims;
 - b. First Amendment retaliation claims based on the confiscation of property on May 31, 2016, and the events of July 26, 2018, as well as related supervisory and conspiracy claims;
 - c. State-law tort claims of assault and battery.
10. This matter is **REMANDED** to Magistrate Judge Saporito for further pretrial handling.



Robert D. Mariani
United States District Judge